

Section A

STATE OF NEW YORK
SUPREME COURT

COUNTY OF SCHOHARIE

In the Matter of the Application of

SEAN JORDAN,

Petitioner,

AFFIDAVIT IN OPPOSITION
TO PETITION

-against-

THE COUNTY OF SCHOHARIE,

INDEX NO.: 2012-233

a municipal corporation,

Respondent,

For Judgment Pursuant to CPLR Article 78.

STATE OF NEW YORK }
 }ss.
COUNTY OF ALBANY }

THOMAS MURRAY, being duly sworn does depose and say as follows:

1. I am the duly elected Town Supervisor for the Town of Cobleskill, which is situated in the County of Schoharie.

2. As such, I have served on the Schoharie County Board of Supervisors for approximately three years.

3. Over the approximate two years or so, I did work fairly closely with petitioner Sean Jordan in an effort to obtain a federal grant for the Town of Cobleskill to fund water and sewer extensions.

4. I am thus familiar with some of the allegations contained in the petition and make this affidavit in opposition to the same.

5. As a general matter, I did have many conversations with petitioner over the past couple of years.

6. In general, I tried to mentor petitioner and offer him guidance.

7. During these many conversations with petitioner, he frequently complained about the former Director of Economic Development, Jody Zakrevsky.

8. During these many conversations between myself and petitioner, he never indicated to me that he was working outside his official job duties.

9. With respect to the allegations contained in paragraph "60" of the petition, I never told petitioner that I was looking for a person with "twenty-five years of experience" to fill the newly created marketing coordinator position.

10. With respect to the allegations contained in paragraph "61" of the petition, I never told petitioner that he was "too young and inexperienced to fill the newly created position."

11. I did encourage petitioner, without regard to the newly created marketing coordinator position, to seek new experiences as a means of improving his own marketability for positions, both within and without the County.

12. I never made the statements alleged in paragraph "66" of the petition to the affect that I was looking for someone whom petitioner could learn from. I did however tell petitioner that I hoped to fill the newly created marketing coordinator position with someone who had good contacts in the Albany/Capital Region business arena.

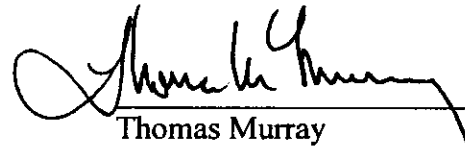
13. I never made the statements alleged in paragraph "90" of the petition to the affect that I was okay with petitioner losing his position because he didn't have a family to support.

14. After it had been determined that petitioner's position would be eliminated from the 2012 budget, I did try to console petitioner with encouraging words such as he was young and had many opportunities to which he could look forward.


15. During 2011, I was a member of both the both the County Board of Supervisor's Finance Committee and the Personnel Committee.

16. During a multitude of such committee meetings, I never heard anyone, including Alicia Terry, who is now head of both the Economic Development Department and the Planning Department, ever suggest that the elimination of petitioner's position was for any reason other than the need to achieve fiscal savings.

17. For the above stated reasons, as well as the reasons set forth in the accompanying affidavits in opposition to the petition, it is respectfully submitted that the within petition must be denied.


Thomas Murray

Sworn to before me this
31st day of May 2012.


Notary Public of the State of New York

LESLIE D. CARR Notary Public, State of New York No. 01CA6012498 Qualified in Warren County Commission Expires August 31, 2014
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Section B

Office shall be maintained by and at the administrative office of the Schoharie County Sheriff, provided however, that the Personnel Officer shall be entitled to maintain the following records: Application Form 330; Report of Personnel Change Form 426; Request for Personnel Action Form; Medical, Physical and Agility Form; any other records required by law to be kept by the Personnel Officer.

REFERENCE: BOS, 1/28/99, Res. #21. BOS, 6/15/07, Res #64

4.9 – Job References

A County Department Head, Officer and/or Official is only authorized to release the following information concerning employees seeking job references: job titles, salary and dates of employment. All employees are required to refer any job-reference inquiries to their department head.

Any information given out in violation of this policy will subject an employee to disciplinary procedures.

4.10 – Discrimination in the Work Place

Any county employee who either witnesses or believes they have been subject to conduct by another county employee that qualifies as discrimination due to age, color, creed, disability, gender, marital status, national origin, race/sex origin or religion under federal or state law, shall promptly report said incident to the Personnel Officer, the relevant Department Head, or the County Board of Ethics.

Any other individual, whether employed by the county or not, who believes they have been discriminated against by a county government officer or employee due to their race, religion, age, marital status, gender, creed, color, national origin or disability should report the alleged discriminatory act to the County Personnel Officer, the relevant Department Head, or the County Board of Ethics.

If the problem is not resolved, the above-named individuals, after speaking with a potential complainant, shall forthwith inform the Personnel Committee and the County Attorney concerning the complaint.

4.11 – Harassment

I. Purpose

The purpose of this policy is to maintain a healthy work environment and to provide procedures for reporting, investigation and resolution of complaints of harassment based on race, religion, creed, sex, national origin, age or disability.

II. Discussion

It is the policy of the County of Schoharie that all employees have the right to work in an environment free of any harassment. The County does not condone, and will not tolerate, any harassment. Therefore, the County shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment.

III. Discussion –

Prohibited Activity: Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee or
- c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

Other Harassment is defined as harassment on the basis of any other protected characteristic. Prohibited harassment is verbal or physical conduct that is offensive to or shows hostility or aversion toward an individual because of his/her race, color, religion, national origin, age, disability or marital status, and that:

- d. ~~Has the purpose or effect of creating an intimidating, hostile or offensive work environment;~~

- e. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- f. Otherwise adversely affects an individual's employment opportunities.

Harassing Conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace (including through e-mail) of written or graphic material that denigrates or shows hostility or aversion toward an individual or group, based on an individual's protected class.

Employee's Responsibilities: Each County Department Head, Officer, Official and/or Employee shall be responsible for preventing acts of harassment.

This responsibility includes:

- a. Monitoring the unit work environment for signs that harassment may be occurring;
- b. Educating and counseling all employees on the types of behavior prohibited, and the County procedures for reporting and resolving complaints of harassment;
- c. Stopping any observed acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within his or her line of supervision; and
- d. Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment, pending investigation.
- e. Each County Department Head, Officer and/or Official has the responsibility to assist any Employee of this County who comes to them with a complaint of harassment, in documenting and filing a complaint with the Personnel Officer and/or the County Attorney.
- f. Each Employee of the County is responsible for assisting in the preemption of harassment through the following acts:
 - 1. Refraining from participation in, or

encouragement of, actions that could be perceived as harassment;

- 2. Reporting acts of harassment to a Department Head, the County Attorney and/or the Personnel Officer;
- 3. Encouraging any employee, who confides that he or she is being harassed, to report these acts to a Department Head, the County Attorney and/or Personnel Officer.

Failure to take action to stop known harassment shall be grounds for discipline.

Complaint Procedures:

- 1. Employees' encountering harassment are encouraged and is recommended to tell the person that their actions are unwelcome and offensive. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation.
- 2. Any employee who believes that he or she is being harassed shall report the incident(s) to his or her Department Head as soon as possible so that steps may be taken to protect the employee from further harassment, and appropriate investigative and disciplinary measures may be initiated. Where this is not practical, the employee may instead file a complaint with the Personnel Officer or the County Attorney.
- 3. The other person to whom a complaint is given shall meet with the employee and document the incidents complained of, the person(s) performing or participating in the harassment, and the dates on which it occurred.
- 4. The County Employee taking the complaint shall expeditiously deliver the complaint to the appropriate investigative authority.
- 5. The Department Head, Personnel Officer and/or the County Attorney

shall be responsible for the investigation of any complaint alleging harassment.

6. The Investigator shall immediately notify the Prosecutor's Office if the complaint contains evidence of criminal activity, such as battery, rape or attempted rape.
7. The Investigator shall include a determination whether other employees are being harassed by the person, and whether other County Employees participated in, or encourage the harassment.
8. The Investigator shall inform the parties involved of the outcome of the investigation.
9. A file of harassment complaints shall be maintained in a secure location by each of the above individuals. The Board of Supervisors shall be provided with an annual summary of these complaints.
10. There shall be no retaliation against any employee, nor will the county tolerate any retaliation, for filing a harassment complaint, or assisting, testifying or participating in the investigation of such a complaint. Retaliation will be subject to discipline and deemed a violation of this policy.

NO RETALIATION

Complainants or Employees accused of harassment may file an appeal to the Board of Supervisors when they disagree with the investigation or disposition of a harassment claim. This policy does not preclude any employee from filing a complaint or grievance with an appropriate outside agency.

Policy Violations:

- ✓ The filing of false reports will be deemed a violation of this policy.
- ✓ Violations of this policy will subject an employee to discipline, including, but not limited to, letters of reprimand, loss of pay, suspension, demotion, and/or termination.
- ✓ Individuals covered by the scope of this policy include any work related or sponsored events that occur off premises. REFERENCE: BOS, 10/18/03, Res. #91.

4.12 – Drug & Alcohol-free Work Place

I. Statement of Purpose

We, the Board of Supervisors of Schoharie County, are strongly committed to provide services to our residents with the highest quality in the safest, most conscientious manner. Our reputation as leaders in our county depends on it. We also are dedicated to providing safe, healthful and efficient working conditions for our employees. In addition, as a municipal government, we have a duty to safely and efficiently provide the public with quality services at a reasonable cost. The presence of controlled substances in the workplace conflicts with the vital interest and constitutes a violation of the public trust. For these reasons, we have established, as a condition of employment and continued employment, the following Drug & Alcohol-free Workplace Policy; along with the adoption on 01-01-01 of the *CDL & Safety Sensitive Positions-Drug and Alcohol Testing in conformity with the Omnibus Transportation Employee Testing Act of 1991. (*Refer to Appendix F) BOS, 6/15/07, RES #64

II. Policy

1. Prohibition against Presence of Controlled Substance and/or Alcohol in Workplace. The manufacture, distribution, dispensation, possession, or use of a controlled substance on County premises and/or in County vehicles. Working while under the influence of Drugs and/or Alcohol while on County time is strictly prohibited.
2. Notification of County Offices, County Department Heads, Officers, Officials, Employees and Contractors of Drug & Alcohol-Free Workplace Policy. The County Personnel Officer is hereby directed to provide a copy of this policy to each and every County Office, Department Head, Officer, Official, Employee and Contractor of the County of Schoharie, upon hiring/employment